

# ARKANSAS SUPREME COURT

No. CR 06-475

PATRICK TROWBRIDGE  
Petitioner

v.

STATE OF ARKANSAS  
Respondent

Opinion Delivered      June 7, 2007

APPEAL FROM THE CIRCUIT COURT  
OF BOONE COUNTY [CR 2002-348,  
HON. JOHN PUTMAN, JUDGE]

REBRIEFING ORDERED.

## PER CURIAM

In 2004, appellant Patrick Trowbridge entered pleas of guilty to first-degree murder and kidnapping for which an aggregate sentence of 660 months' imprisonment was imposed. Subsequently, appellant timely filed in the trial court a petition for postconviction relief under Ark. R. Crim. P. 37.1, which was denied in 2005. Appellant sought, and was granted, leave by this court to proceed with a belated appeal of the order. *Trowbridge v. State*, CR 06-475 (Ark. Sept. 21, 2006) (per curiam).

Ms. Linda Woodworth, the attorney who is representing appellant in the appeal, filed a brief pursuant to *Anders v. California*, 386 U.S. 738 (1967), and a motion pursuant to Ark. Sup. Ct. R. 4-3(j)(1) seeking to be relieved as counsel on the ground that the appeal is wholly without merit.<sup>1</sup>

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<sup>1</sup>Our clerk provided appellant with a copy of counsel's brief and motion as required by Ark. Sup. Ct. R. 4-3(j)(2) and advised him that he was entitled to submit within thirty days any pro se points for reversal of the order that he desired this court to consider on appeal. Appellant tendered points for reversal, but the points were not received within the thirty-day period allowed and were not filed as a result.

Although such a “no merit” brief is typically filed in a direct appeal from a judgment, the procedure set out in our Rule 4-3(j) applies to postconviction appeals as well. *See Brady v. State*, 346 Ark. 298, 57 S.W.3d 691 (2001); *see also Matthews v. State*, 332 Ark. 661, 966 S.W.2d 888 (1998). The appellee elected not to file a brief.

Upon examining the brief filed by counsel in this appeal, it is clear that counsel has not complied with *Anders* and Ark. Sup. Ct. R. 4-3(j)(1). The rule provides in pertinent part:

The brief shall contain an argument section that consists of a list of all rulings adverse to the defendant made by the circuit court on all objections, motions and requests made by either party with an explanation as to why each adverse ruling is not a meritorious ground for reversal. The abstract and Addendum of the brief shall contain, in addition to the other material parts of the record, all rulings adverse to the defendant made by the circuit court.

In the Rule 37.1 petition, appellant raised several specific claims of ineffective assistance of counsel as well as a claim of prosecutorial misconduct. The argument portion of counsel’s brief in its entirety reads as follows:

The trial court erred in not granting the Rule 37 petition for post conviction relief in which the appellant sought to have his sentence and conviction voided and a new trial granted to the appellant on charges of capital murder and felony kidnapping.

There is no valid argument to be made for the appellant’s position. This is a no merit brief.

#### CONCLUSION

For the reason stated above and set forth on this page, the Appellant moves this Court to reverse the conviction and sentence, and grant the Appellant a new trial.

Counsel has failed to identify the issues raised by appellant and explain why each adverse issue was not a meritorious ground for reversal of the court’s order. Without an adequate brief, we

cannot make a reasoned decision regarding whether counsel is entitled to be relieved on the ground that the appeal is without merit. *See Brady, supra; see also Dewberry v. State*, 341 Ark. 170, 15 S.W.3d 671 (2000). As a result, we must order rebriefing in the present case because the brief submitted by appellant's counsel is woefully inadequate. In directing rebriefing, we do not express any conclusion as to whether the brief filed by counsel is deficient in any other respect or express an opinion as to whether the new brief should be on the merits or should be made pursuant to *Anders, supra*, and Ark. Sup.Ct. R. 4-3(j)(1).

Rebriefing ordered.